

REMARKS

The Office Action and cited references have been reviewed. Claims 1-4, 9-11 and 29-41 have been allowed. Claims 5-8 and 12-16 have been previously withdrawn. Claims 17-28 have been previously cancelled. Claims 42-45 stand rejected. No claims have been amended and no new claims have been added. Consideration of the pending claims is respectfully requested.

Rejection under 35 U.S.C. §103

The Office Action has rejected claims 42-45 under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 5,878,895 to Springs (hereinafter “Springs”) in view of U.S. Pat. No. 4,809,855 to Bustos (hereinafter “Bustos”). Claims 42-45 have been cancelled. Therefore, the rejection of these claims is moot and should be withdrawn.

Allowed Claims

The Applicants thank the Examiner for the indication that claims 1-4, 9-11 and 29-41 have been allowed. These claims should be passed along to issue.

Previously Withdrawn and Cancelled Claims

In a previous Office Action, the Examiner issued a restriction requirement requiring Applicants to elect either the invention of Group I, including claims 1-16, or the invention of Group II, including claims 17-28. In their Response to Office Action, the Applicants chose to elect Group I. Claims 17-28 were cancelled.

The Examiner further advised that claim 1 was generic to several species, namely Species I – Figs. 2-5, Species II – Figs. 7-9a, Species III – Fig. 10, and Species IV – Fig. 11. Applicant was required to elect a single species. In their Response to Office Action, the Applicants chose to elect Species III – Fig. 10 and indicated that claims 1-4 and 9-11 are readable on the elected species. Claims 5-8 and 12-16 were withdrawn pending allowance of a generic claim.

In the above-noted Office Action, the Examiner expressly stated that claim 1, which has now been allowed, was generic to several species. Therefore, claims 5-8 and 12-16, which were previously withdrawn pursuant to the election of species, should now also be allowable. Indeed, as stated in MPEP §809.02:

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

In the present case, each of claims 5-8 and 12-16, either directly or through intervening claims, depends from and includes all the limitations of independent claim 1. As a result, each of these claims should now be allowable along with claim 1. Notification of the same is solicited.

Statement of Reasons for Allowance

The Applicants respectfully traverse the Examiner's statement of reasons for allowance to the extent it differs from a mere restatement of the claim language. Applicants further traverse the Examiner's statement and reasoning insofar as they would lead to or suggest, if at all, an interpretation of the claimed invention different from the full extent of claim scope afforded thereto by the established law in the absence of the statement of the reasons for allowance.

Extension of Time and Fee Deficiency

Applicants believe that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicants have inadvertently overlooked the need for a petition and fee for extension of time. If any additional fee is required, or any overpayment is made, in connection with this communication please charge or credit deposit account No. 50-3505.

In re Appln. Of: Thomas E. Valiulis
Application No.: 10/802,983

Conclusion

Each of claims 1-16 is now believed to be allowable and should be passed along to issue. Therefore, these claims should be passed to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

Respectfully submitted,

/William H. Dietrich/

William H. Dietrich, Reg. No. 48359

Reinhart Boerner Van Deuren P.C.

2215 Perrygreen Way

Rockford, Illinois 61107

(815) 633-5300 (telephone)

(815) 654-5770 (facsimile)

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